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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,663	12/19/2001	Steven A. Blankenship	P-1106	6529
7590	10/20/2004		EXAMINER	
Scott R. Cox Suite 2200 400 West Market St. Louisville, KY 40202			HENDRICKSON, STUART L.	
			ART UNIT	PAPER NUMBER
			1754	
DATE MAILED: 10/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10102583

Applicant(s)

Blatensky

Examiner

Hendrickson

Group Art Unit

1757

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 9/18/89
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-5, 11, 13, 14, 22-27 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-5, 11, 13, 14, 22-27 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The request filed on 9/10/04 for Continued examination (RCE) based on parent Application No. 10/025663 is acceptable and a RCE has been established.

Claims 1-5, 11, 13, 14, 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. 5587348 taken with Wood et al.

Brown teaches in column 2 and ex. 1 a catalyst having the claimed amounts of Ag and Pd on low surface area alumina. Brown does not recite the reduction and shipping, however teaches reduction in column 3. Wood teaches in column 16-17 making a Pd catalyst (with promoters), reducing it and storing it in inert gas. Shipping/selling it is an obvious expedient to make a profit and preventing re-oxidation is an obvious expedient to preserve the catalytic activity. Using the claimed gases is an obvious expedient to provide an inexpensive preservative; the examiner takes Official Notice that nitrogen helium, etc. claimed are old and known as nonoxidizing. Method of use recitations (claims 11, 13) do not limit the catalyst.

Brown does not exemplify the ratio of claim 25, however suggests it. Thus, using the claimed ratio of metals is a matter of obvious optimization of catalytic activity versus expense; In re Boesch 205 USPQ 215. The examiner takes Official Notice that the supports not taught by the reference are old and known as equivalents to alumina, and thus are not patentable.

Claims 1-5, 11, 13, 14, 22-24, 26, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. 4484015 taken with Wood et al.

The reference teaches in column 2 and 5 the claimed catalyst. Although not teaching the shipping processing, Wood teaches in column 16-17 making a Pd catalyst (with promoters), reducing it and storing it in inert gas. Shipping/selling it is an obvious expedient to make a profit and preventing re-oxidation is an obvious expedient to preserve the catalytic activity. Using the claimed gases is an obvious expedient to provide an inexpensive preservative; the examiner takes Official Notice that nitrogen helium, etc. claimed are old and known as nonoxidizing. Method of use recitations (claims 11, 13) do not limit the catalyst.

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Claim 14 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over each of Brown et al. and Johnson et al. separately.

The references each make the same catalyst even though possibly stored differently; no differences are seen. The examiner takes Official Notice that the claimed supports are old and known as catalyst supports.


Claims 1-5, 11, 13, 14, 22-27 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention.

Brown, supra, indicates the catalyst was purchased from UCI. This company is based in the same city as the present assignee and is represented by 'Scott R. Cox' on many of its patents. It appears that the claimed catalyst was shipped in the claimed manner by the present corporation or its subsidiary, or that the company was purchased or taken over.

Applicant's arguments filed 9/10/04 have been fully considered but they are not persuasive.

The Declaration showing superior results versus not reducing are neither relevant nor unexpected, given that reduction is explicitly taught by the references. The claims are not limited to the showing and the showing is not versus the closest prior art. Further, method of use claims are not under examination; the Declaration relates to a method of use. The Declaration merely refers to the specification and does not offer anything new. A logical reason has been advanced for combining the references.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.



Stuart Hendrickson
examiner Art Unit 1754